

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA**

MELVIN PLUMLEE,)
)
Plaintiff,)
)
vs.) CASE NO.: 15-CIV-364-Raw
)
MARKEL AMERICAN INSURANCE)
COMPANY,)
)
Defendant.)

PLAINTIFF'S MOTION TO DISMISS

COMES NOW the Plaintiff, Melvin Plumlee, pursuant to Fed. R. Civ. P. 41 (a) (2), and requests this Court grant his *Motion to Dismiss* in the above named cause of action against Defendant, MARKEL AMERICAN INSURANCE COMPANY, based on the following facts and circumstances:

1. This case is one based on an insurance claim which resulted from a storm loss Plaintiff suffered, on or about March 31, 2015.
2. Plaintiff filed a claim with Defendant but could not reach an agreement regarding the amount of damages the subject property suffered.
3. Defendant issued partial payment for the damages, based upon its estimates, while Plaintiff continued to negotiate the remaining amount he believed was due, based on his coverage under the policy.
4. The parties could not reach an agreement, therefore; Plaintiff filed his action in Seminole County, State of Oklahoma. The case was removed by Defendant to this Court.
5. Plaintiff recently notified Counsel he sold the property which is the subject of this litigation.

6. Plaintiff is under the belief the partial payment received from MARKEL AMERICAN INSURANCE COMPANY, combined with the sale price he negotiated for the subject property, has made him whole and therefore his claim against Defendant has been extinguished or is no longer valid.
7. Counsel for Plaintiff has discussed the aforementioned facts and the instant *Motion* with Counsel for Defendant. Defendant states no objections to Plaintiff's request.
WHEREFORE, premise considered, Plaintiff respectfully prays this Honorable Court will grant his *Motion to Dismiss* without prejudice.

Respectfully submitted,

/s/ Ben Baker

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CERTIFICATE OF SERVICE

I hereby certify that on November 24, 2015, a true and correct copy of the above and foregoing instrument was forwarded via email and/or fax and/or first class U.S. Mail to the following counsel of record and transmitted via email to the Clerk of the Court for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants and/or in accordance with the Federal Rules of Civil Procedure:

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